

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

**Petitioner,
SAEZ MATA LEONARDO.**

**DETAINED
A#: 246-141-348**

25 cv 106

V.

MERRICK B. GARLAND,
in his official capacity as
Attorney General of U.S.;

ALEJANDRO MAYORKAS,
in his official capacity as
Secretary of the U.S. DHS;

THOMAS BROPHY,
in his official capacity as Acting
Field Office Director of Buffalo
Field, Enforcement and
Removal Operations, U.S.;

an

George Harvey
in his official capacity as
Officer-in-Charge,
Buffalo Federal
Detention Facility.

Respondent.

**IN A PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

INTRODUCTION

1. My name is Leonardo Saez Plata (‘‘Petitioner’’).
2
2. Since I have entered the United States, I have been accorded the following immigration status: Humanitarian Parol.
3
3. I am currently being detained by the Department of Homeland Security (‘‘DHS’’) at the Buffalo Federal Detention Facility (‘‘BFDF’’) in Batavia, New York. I have been in immigration detention since July 18, 2024, for a period of approximately 7 months.
4
5
4. On July 29, 2024, the Immigration Judge sustained charges of removability against me and ordered me removed to Venezuela.
6
7
5. I appealed my removal order to the Board of Immigration Appeals (‘‘BIA’’), and on N/A, the BIA denied my appeal.
8
6. I petitioned for review to the U.S. Court of Appeals for the N/A Circuit (‘‘Circuit Court’’), and on N/A, the Circuit Court denied my petition for review.
9
10
7. I am currently being detained by DHS pursuant to 8 U.S.C. § 1231(a)(6) because: (1) I have a final order of removal, and (2) because the ninety-day removal period has now elapsed.
8. Despite holding me in immigration detention for more than six months after receiving a final order of removal, DHS has not been able to effectuate my removal. Given DHS’s delay thus far, there is no significant likelihood that I will be removed from the country in a reasonably foreseeable time. *See generally Zadvydas v. Davis*, 533 U.S. 678 (2001).
9. Accordingly, I respectfully request that the Court use its authority under 28 U.S.C. § 2243 to order the Respondent to file an answer and return within three days, unless they can

show good cause for additional time. *See* 28 U.S.C. § 2243 (stating that an order to show cause why a petition for a writ of habeas corpus should be denied “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed”).

10. In order to permit full judicial review of the claims herein and requested relief, I also respectfully request that the Court order the Respondent not to transfer me outside the jurisdiction of this Court pending consideration of this Petition.

PARTIES

11. Petitioner, Leonardo Saez Hata¹¹, is detained at the Buffalo Federal Detention Facility.

12. Respondent Jeffrey Searls is sued in his official capacity as the Officer-in-Charge of the Buffalo Federal Detention Facility, at which Petitioner is currently detained.

JURISDICTION AND VENUE

13. This Court has jurisdiction under the United States Constitution. U.S. CONST. art. I § 9, cl. 2. This Court also has jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241 (habeas corpus), and 28 U.S.C. § 1651 (All Writs Act).

14. Additionally, this Court has jurisdiction to grant injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2202.

15. Venue is proper in the U.S. District Court for the Western District of New York because Petitioner is currently being detained at the Buffalo Federal Detention Facility in Batavia, New York, which is within the Western District. *See* 28 U.S.C. § 1391(e).

EXHAUSTION OF REMEDIES

16. There is no statutory exhaustion requirement for a petition challenging immigration detention. *See Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014).

17. I am not required to exhaust administrative avenues to challenge my detention because the statutory authority that permits my detention provides no administrative vehicle for doing so. *See* 8 U.S.C. § 1231(a)(6); *see also Cave v. East Meadow Union Free Sch. Dist.*, 514 F.3d 240, 249 (2d Cir. 2008) (“The exhaustion requirement is excused when exhaustion would be futile because the administrative procedures do not provide an adequate remedy.”).

LEGAL ARGUMENT

18. The Supreme Court has stated that “[f]reedom from . . . government custody [and] detention lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). The Supreme Court further noted in *Zadvydas* that “[a] statute permitting indefinite detention of a [noncitizen] would raise a serious constitutional problem.” *Id.* at 690.

19. The Due Process clause applies to all persons in the United States, “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693 ; *see also Plyler v. Doe*, 457 U.S. 202, 210 (1982) (“[Noncitizens], even [noncitizens] whose presence in this country is unlawful, have long been recognized as ‘persons’ guaranteed due process of law by the Fifth and Fourteenth Amendments.”).

20. Congress authorized the DHS to detain noncitizens during a statutorily defined “removal period,” during which the Department may effectuate the noncitizen’s removal from the United States. 8 U.S.C. § 1231(a)(1). The removal period typically lasts for ninety days and starts at the latest of: (1) the date an order of removal becomes administratively final; (2) if a removal order is judicially reviewed and a stay of removal has been ordered, the date of the court’s final order; or (3) the date the noncitizen is released from any detention other than for immigration purposes. 8 U.S.C. § 1231(a)(1)(B).

21. Under 8 U.S.C. § 1231(a)(2), noncitizens subject to final orders of removal “shall” be detained during the first ninety days—the “removal period”—and they “shall” be removed during that period under § 1231(a)(1). Under 8 U.S.C. § 1231(a)(6), however, the government “may” continue detention beyond the 90-day removal period if a noncitizen falls within certain broad categories of removability or is determined “to be a risk to the community or unlikely to comply with the order of removal.” 8 U.S.C. § 1231(a)(6).

22. The Supreme Court in *Zadvydas*, in order to avoid the serious due process concerns that would be presented by permitting detention for an indefinite period of time, construed 8 U.S.C. § 1231(a)(6) to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 690. After a noncitizen meets his or her initial burden to show that no such likelihood of removal exists, the burden shifts to the Government to “respond with evidence sufficient to rebut [the noncitizen’s] showing.” *Id.* at 701.¹

23. If a court finds removal is reasonably foreseeable, the court may still order release, and may consider the risk posed by the individual to community safety in determining whether to do so. *Id.* at 700. While dangerousness may justify immigrant detention in certain cases, the Court “uph[o]ld[s] preventive detention based on dangerousness only when limited to specially dangerous individuals and subject to strong procedural protections.” *Id.* at 691.

¹ To the extent Respondent claims otherwise, the Supreme Court’s decision in *Johnson v. Arteaga-Martinez* has no application here. 142 S. Ct. 1827 (2022). *Arteaga-Martinez* merely held that, as a matter of statutory construction, 8 U.S.C. § 1231(a)(6) does not require bond hearings after six months of detention. *Id.* at 1833. *Arteaga-Martinez* does not reach the question of what due process requires under the Constitution, nor does it undermine the presumption affirmed in *Zadvydas* that post-order detention becomes unreasonable after six months. *Id.* at 1834-35.

24. My removal period began on October 18, 2024 .

25. My removal period expired on January 18, 2024¹²₁₃ , ninety

days after its initiation. I was detained beyond the ninety days pursuant to 8 U.S.C. § 1231(a)(6).

26. The DHS's persistent inability to effectuate my removal provides threshold evidence that there is not a significant likelihood of removal in the foreseeable future. *See Senor v. Barr*, 401 F. Supp. 3d 420, 430 (W.D.N.Y. 2019) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102-03 (W.D.N.Y. 2019)); *see also D'Alessandro v. Mukasey*, 628 F. Supp. 2d 368, 404 (W.D.N.Y. 2009) (“[T]he burden upon the [detained person] is not to demonstrate no reasonably foreseeable, significant likelihood of removal or show that his detention is indefinite[.] . . . Rather, . . . the [detained person] need only provide good reason to believe that removal is not significantly likely in the reasonably foreseeable future.”) (quoting parties’ briefing in the case) (internal quotation marks omitted).

27. Accordingly, unless the Respondent can supply sufficient evidence to the contrary, they should now release me from their custody because my “continued detention [has become] unreasonable and [is] no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699-700.

28. Even if the court determines that removal is reasonably foreseeable, this court should order my release because I am not a danger to the community. *Id.* at 700.

CLAIM FOR RELIEF

COUNT ONE:

PETITIONER’S PROLONGED DETENTION VIOLATES THE UNITED STATES CONSTITUTION

29. I reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

30. Noncitizens who have been detained by DHS pursuant to its statutory authority under 8 U.S.C. § 1231(a) for over six months must be released from custody if there is no significant likelihood that they will be removed in the reasonably foreseeable future.

31. Continuing to detain me under 8 U.S.C. § 1231(a)(6) while there is no significant likelihood of my removal in the reasonably foreseeable future deprives me of my "strong interest in liberty," and therefore violates the Fifth Amendment of the United States Constitution. *U.S. v. Salerno*, 481 U.S. 739, 750 (1987). It further poses actual and substantial hardships and irreparable injuries to me.

32. I have no adequate remedy at law other than the instant petition for a writ of habeas corpus.

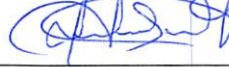
PRAYER FOR RELIEF

WHEREFORE, I pray that this Court grants the following relief:

1. Assume jurisdiction of this matter;
2. Use its authority under 28 U.S.C. § 2243 to:
 - i. Order the Respondent to file an Answer and Return within 3 days of the filing of the petition, unless they can show good cause for additional time;
 - ii. Order Petitioner's Reply be filed 15 days after the Court sets the deadline for Respondent's Answer and Return;
 - iii. Order the Respondent not to transfer Petitioner outside the Western District of New York during the pendency of this Petition;
3. Issue a writ of habeas corpus ordering the Respondent to immediately release Petitioner with reasonable terms of supervised release; and
4. Grant any further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct.

Respectfully submitted,



14

Leonardo Saez Hata

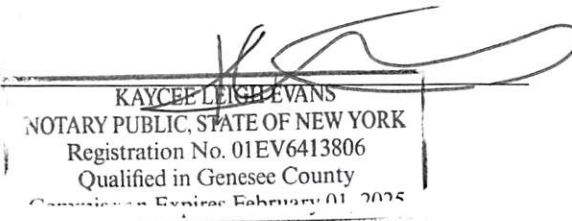
15

Buffalo Federal Detention Facility
4250 Federal Drive
Batavia, New York 14020

DATED: Jan 14 2025
16
BATAVIA, NY

Sworn Before Me On This 14 Jan 2025

Notary Public



CERTIFICATE OF SERVICE

I, Leonardo Saez Mata hereby certify that on January 23, 2025, I caused to be served a true copy of the:

**IN A PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

with the clerk of the court for the United States circuit Court of Rochester NY by using the appellate.

One copy of the above documents was addressed and mailed to :
x By sending via USPS first Class Mail to:

Clerks Office Of The U.S. Courthouse
U.S. Courthouse
100 State Street,
Rochester, NY 14614

I certify under the penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. § 1746

Respectfully Submitted,

/s/  _____

Leonardo Saez Mata
Detained Petitioner, Pro-se
A#: 246-141-348
4250 federal drive
Batavia, NY. 14020
(B.F.D.f.)

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

LEONARO SAEZ MATA
A#: 246-141-348

(b) County of Residence of First Listed Plaintiff Genesee County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Pro Se

DEFENDANTS

George Harvey in his official capacity as Officer-in-Charge of the
Buffalo Federal Detention Facility

County of Residence of First Listed Defendant Genesee County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input checked="" type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 2241

Brief description of cause:

Ongoing detention violates due process

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

1/23/2025

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Print

Save As...

Export as FDF

Retrieve FDF File

Reset

APÉNDICE E: MOCIÓN PARA PROCEDER CON EL BENEFICIO DE LITIGAR SIN GASTOS

Si usted no puede pagar el costo de **presentación de su petición de habeas corpus** de \$5,00, puede llenar y presentar una **moción para proceder con el beneficio de litigar sin gastos**. Esto permitirá que usted **presente la petición** gratuitamente. En las próximas páginas, se incluye una copia para que usted la complete. Puede encontrar ese y otros recursos en la siguiente página web:

https://www.nywd.uscourts.gov/sites/nywd/files/ProSe_Forms_IFPApplicationForm.pdf.

Responda las preguntas sobre sus finanzas con la verdad. Al final de la segunda página hay una “PRISON CERTIFICATION SECTION” (sección de certificación de la prisión). Ésta debe ser completada y firmada por un oficial en el centro.



Buffalo Federal Detention Facility

BUFFALO NY 142
TUE 28 JAN 2025 PM



Office of US Courthouse
State Street,
Rochester, NY 14614